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Via E-File

May 21, 2008

Hon. Jeremy Fogel
United States District Court, Northern District of California
Department 3
280 South 1st Street
San Jose, CA 95113

Re: *Balarezo v. Nth Connect Telecom, Inc.*
USDC Northern District C07-05243 JF

Dear Judge Fogel:

On May 2, 2008, you issued a ruling on Plaintiffs' Hoffman-La Roche motion granting our ability to send Notice to former and current cable installers employed by Defendants and triggering a 60 day opt-in period.

After you granted the Order, Mr. Wang and I attempted to get worker names and contact information to mail them the Notice. Defense counsel has informed me that he cannot do so as your Order does not address the issue of the worker names and addresses.

I am attaching our e-mail exchange as Exhibit A to this letter.

I ask that you either review and if acceptable sign the Proposed Order Plaintiffs filed with their motion or otherwise inform us that we can in fact get the worker names and addresses to mail out the Notice. Given the delays, I would ask that we can have the names and addresses delivered to us within 10 days.

Sincerely,

/s/ TOMAS MARGAIN

Tomas E. Margain

Cc: Adam Wang, Esq.

**RE: Balarezo v. Nth Conenct**From: **Tomas Margain** (margainlaw@hotmail.com)

Sent: Thu 5/15/08 1:54 PM

To: Grant Carlson (gcarlson@go4law.com); Dana Butler (dbutler@go4law.com); waqw@sbcglobal.net

Grant,

Thanks for getting back to me so soon. I am happy you are making sure the privacy rights of these workers are being respected. I would ask that your client begin compiling this information and we will inform the Court in our motion or request, that is either formally or informally, about your concerns. We are not attempting to get any sanctions on this, but we are billing for it in the event Plaintiffs prevail in whole or in part, so we are going to go forward to get this "clarification" from the Court as you want all the I's dotted.

Tomas

Subject: RE: Balarezo v. Nth Conenct

Date: Thu, 15 May 2008 13:25:31 -0700

From: GCarlson@go4law.com

To: margainlaw@hotmail.com; DButler@go4law.com; waqw@sbcglobal.net

Mr. Margain:

Dana has asked me to review these emails and the file, including the May 2, 2008 order of the court, as well as your proposed order submitted previously with the motion papers. From what I have reviewed, it appears that the only document which would require us to do what you are asking is your proposed order. However, I have not seen anything that indicates that the court ever executed that order. Please let me know immediately if I am incorrect. If the court has executed that proposed order, we will comply ASAP. If it has not, I think you need to contact the court to see why, but a motion to compel is in no event necessary or appropriate.

We are ready to comply with anything ordered by the court. Please follow up and make sure the court has executed the order. It is not inappropriate for us to make sure that all the I's and T's are crossed before telling our client to give you personal information about the majority of their employees. All we are asking for is a signed court order. This personal information about employees is something which we simply cannot advise our client to provide until we receive a signed court order mandating it.

Grant

From: Tomas Margain [mailto:margainlaw@hotmail.com]**Sent:** Thursday, May 15, 2008 1:08 PM**To:** Dana Butler; waqw@sbcglobal.net

Cc: Grant Carlson

Subject: RE: Balarezo v. Nth Conenct

Dana,

Thank you for your e-mail. It appears that we do not need to meet and confer on this issue further as you are taking the position that you will not have your clients give us this information. We will move to get this information from the Court.

Thanks

Tomas

Subject: RE: Balarezo v. Nth Conenct

Date: Thu, 15 May 2008 11:39:39 -0700

From: DButler@go4law.com

To: margainlaw@hotmail.com; waqw@sbcglobal.net

CC: GCarlson@go4law.com

Dear Tomas,

We have reviewed the May 2nd Order of the Court, and we find no provision that requires us to do what you are asking. We are not aware of a signed order that requires us to turn over names and addresses of Nth Connect employees. If there is one, please provide it to us for consideration.

Sincerely,

Dana Butler

-----Original Message-----

From: Tomas Margain [mailto:margainlaw@hotmail.com]

Sent: Wednesday, May 14, 2008 4:13 PM

To: Dana Butler; waqw@sbcglobal.net

Cc: Grant Carlson

Subject: RE: Balarezo v. Nth Conenct

Dana,

This is Tomas Margain co-counsel for Plaintiffs. While I appreciate your position below, we need worker names and addresses to serve the Court's Order. If you want to see a copy of the order, you can go to our website www.mynthwages.com. We have to send this Notice to trigger the 60 day period.

On this issue, we will probably bring this as a motion to compel compliance with the Court's order and

seek sanctions. Can you let us know why we cannot get the names and addresses within 10 days?

Tomas

Subject: RE: Balarezo v. Nth Conenct

Date: Wed, 14 May 2008 15:07:03 -0700

From: DButler@go4law.com

To: waqw@sbcglobal.net; margainlaw@hotmail.com

CC: GCarlson@go4law.com

Dear Mr. Wang,

This letter will serve as a partial response to your meet and confer letter dated May 7, 2008, in which you seek further responses and additional documents from defendants in response to Plaintiff's Amended Request for Production of Documents, Set One (hereinafter "Amended RFP").

First, without addressing each of the categories you have raised in Section I as to plaintiff Balarezo, please be advised that the documents you have sought pertaining to Mr. Balarezo via this letter are extensive. Before we can even begin to produce them, we will need to ascertain (1) whether such documents exist, (2) how voluminous they are and how long they will take to retrieve, and (3) whether they are encompassed in your requests and are otherwise not privileged. Your deadline demanding a further written response and production of these documents within 10 days of receipt of your letter is thus unrealistic, as it does not even permit time to meet and confer. We will need at minimum an additional two weeks to ascertain what documents exist and to respond in detail to your letter, and will do so by May 28, 2008.

Second, as to the issues you raise in Section II of the letter as to Osmin Avila, and Section III of the letter as to Putative Class Members, please correct us if we are wrong, but it is our understanding that (1) the Amended RFP was served *prior* to your filing an amended complaint that named Osmin Avila as a plaintiff, and (2) our response to the Amended RFP were also served *prior* to the Court's Ruling on the Hoffman-La Roche Motion. Thus, as was noted in defendants' response thereto, it appears that the only person as to whom you were entitled to request discovery at the time was Vladimir Balarezo. If you are aware of any authority that makes previously-served discovery binding on later-added parties, or authority which makes a Court ruling on a Hoffman-La Roche motion sufficient to compel responses of a party to previously-served discovery, please let us know and we will be happy to reconsider our position.

Sincerely,

Dana Butler

Friedman, Enriquez & Carlson, LLP

433 N. Camden Drive, Suite 965

Beverly Hills, CA 90210

Tel. No. 310 273-0777

Fax No. 310 273-1115

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From: Adam Wang [mailto:waqw@sbcglobal.net]
Sent: Wednesday, May 07, 2008 12:05 PM
To: Grant Carlson
Cc: 'Tomas Margain'
Subject: Balarezo v. Nth Conenct

Grant,

Attached please find a letter in efforts to resolve discovery disputes informally. A hard copy is also sent to you by mail.

Adam Wang